

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

SHAUN MERRITT,

Plaintiff,

v.

STANLEY PAYNE, et al.,

Defendants.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. 4:19-cv-03101-JAR

**MEMORANDUM AND ORDER**

This matter comes before the Court on its own motion. On May 15, 2020, the Court ordered plaintiff to file an amended complaint within thirty days. (Docket No. 3). Plaintiff has failed to comply. Therefore, for the reasons discussed below, this action will be dismissed without prejudice. *See* Fed. R. Civ. P. 41(b).

**Background**

Plaintiff is a convicted state prisoner in the custody of the Missouri Department of Corrections. On November 15, 2019, plaintiff filed a civil action by and through counsel pursuant to 42 U.S.C. § 1983. The complaint named Corizon Health, Inc., Corizon, LLC, Warden Stanley Payne, Warden Teri Lawson, Warden Dan Redington, Warden John Doe, and Dr. Sharmila Suri as defendants. Along with the complaint, plaintiff also filed a motion for leave to proceed in forma pauperis. (Docket No. 2).

On May 15, 2020, the Court granted plaintiff's motion for leave to proceed in forma pauperis. (Docket No. 3). Because plaintiff was proceeding in forma pauperis, the Court also reviewed his complaint pursuant to 28 U.S.C. § 1915. Upon that review, the Court determined that plaintiff's complaint was subject to dismissal. Rather than dismissing outright, however, the Court

directed plaintiff to file an amended complaint within thirty days. Plaintiff was advised that failure to comply with the Court's order would result in the dismissal of his complaint without prejudice and without further notice.

#### **Discussion**

As noted above, on May 15, 2020, the Court ordered plaintiff to file an amended complaint within thirty days. The amended complaint was due on or before June 15, 2020. In the order, plaintiff was advised that failure to comply with the Court's order would result in the dismissal of this action without prejudice and without further notice.

The deadline for plaintiff to file his amended complaint has expired. In fact, the Court has given plaintiff substantially more than thirty days in which to respond. Nonetheless, plaintiff has failed to submit an amended complaint as directed. He has also failed to file a motion with the Court seeking an extension of time in which to comply. Indeed, since the filing of his complaint, the Court has had no further communications from plaintiff whatsoever.


Under Rule 41(b), an action may be dismissed for failure to comply with a court order. *See* Fed. R. Civ. P. 41(b). Because plaintiff has not complied with the Court's order of May 15, 2020, or filed any type of motion seeking an extension of time in which to comply, the Court will dismiss this action without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that this action is **DISMISSED** without prejudice for failure to comply with the Court's order of May 15, 2020. *See* Fed. R. Civ. P. 41(b). A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that an appeal from this dismissal would not be taken in good faith.

Dated this 4<sup>th</sup> day of September, 2020.

  
\_\_\_\_\_  
JOHN A. ROSS  
UNITED STATES DISTRICT JUDGE